

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JACQUELINE HOYTE, Administratrix of :  
the Estate of BASIL CUFFY, DECEASED, :  
and JACQUELINE HOYTE, in her Own :  
Right :

Plaintiff :

v :

GEORGE WAGNER, et al. :

Defendants. :

CIVIL ACTION  
No. 05-4437

**MEMORANDUM**

**Green, S.J.**

**October 3, 2006**

Presently pending is a Motion to Dismiss the Plaintiff's Second Amended Complaint filed on behalf of Defendants Berks County, Berks County Prison Board and George Wagner (hereinafter "the Berks Defendants"), and Plaintiff's response thereto. For the reasons set forth below, Defendants' Motion to Dismiss will be denied.

**Factual and Procedural Background**

Plaintiff, the widow of the deceased, Basil Cuffy, initiated this action on August 19, 2005 against Primecare Medical, Inc., Marybeth Jackson, MD, Thomas Ridge, Secretary of the Department of Homeland Security, William Riley, Bureau of Immigration and Customs Enforcement Local District Director, and the named Berks Defendants. On August 26, 2005 Plaintiff filed an amended complaint against the Berks Defendants. On May 25, 2006, Plaintiff filed a second amended complaint (hereinafter "the Complaint") against the Berks Defendants. The Berks Defendants filed a Motion to Dismiss the Complaint.

In the Complaint, Plaintiff asserts that at the time of his death, Basil Cuffy was detained by the United States Citizenship and Immigration Services (hereinafter "USCIS"). As a detainee, Mr. Cuffy was held at the Berks County Prison in Berks County, Pennsylvania. Mr. Cuffy was held in detention from October 2001 until his death on August 20, 2003. While being detained, Mr. Cuffy allegedly was not given vegetarian meals, despite his status as a vegetarian. According to the Complaint, Mr. Cuffy became ill in July 2003. During his illness, instead of being placed in the Berks County Prison Medical Ward, he was allegedly placed in solitary confinement. Later, as Mr. Cuffy's illness progressed, he was taken to Reading Hospital. Despite the request of Mr. Cuffy's doctor, the Department of Homeland Security law enforcement official allegedly refused to remove Mr. Cuffy's restraints. Mr. Cuffy died in Reading Hospital from his illness.

Plaintiff's claim against the Berks Defendants consist of the following counts: (1) Failure to Provide Adequate Nutrition pursuant to 42 U.S.C. § 1983, (2) Conditions of Confinement Excessively Harsh and Punitive pursuant to 42 U.S.C. §1983, (3) Use of Excessive Restraint and Excessive Force pursuant to 42 U.S.C. §1983, and (4) Wrongful Death and Survival Actions. The Berks Defendants presently seek to have the Complaint dismissed against them on the grounds that they claim Plaintiff has not stated a claim under which relief may be granted. Specifically, the Berks Defendants assert that the complaint against Berks County and George Wagner, the warden of Berks County Prison, must be dismissed because the Plaintiff has not plead any facts to support an action for municipal liability. Moreover, the Berks Defendants assert that the complaint against George Wagner as an individual Defendant must be dismissed for failure to show some affirmative conduct on the part of this Defendant.

In her response, Plaintiff asserts that the notice pleading requirements of Federal Rule of

Civil Procedure 8(a) do not require such specificity of allegations. Moreover, Plaintiff asserts that the Complaint contains adequate allegations of underlying constitutional violations and municipality and individual liability.

### **Discussion**

A court should grant a motion to dismiss for failure to state a claim only if it appears to a certainty that no relief could be granted under any set of facts which could be proved. *See Hishom v. King & Spalding*, 467 U.S. 69, 73 (1984). When deciding a motion to dismiss, the court must "construe the complaint in the light most favorable to the Plaintiff, and determine whether, under any reasonable reading of the pleadings, the Plaintiff is entitled to relief." *Colburn v. Upper Darby Township*, 838 F.2d 663, 665-6 (3d Cir. 1988), cert. denied, 489 U.S. 1065 (1989). The Federal Rules of Civil Procedure require notice pleadings in civil proceedings. Fed. R. Civ. P. 8(a) (2006). A unanimous Supreme Court stated that:

[g]iven the Federal Rules simplified standard for pleading, a court may dismiss a complaint only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations. If the pleading fails to specify the allegations in a manner that provides sufficient notice, a defendant can move for a more definite statement under Rule 12(e) before responding. Moreover, claims lacking merit may be dealt with through summary judgment under Rule 56. The liberal notice pleading of Rule 8(a) is the starting point of a simplified pleading system, which was adopted to focus on the merits of the claim.

*Swierkiewicz v. Sorema*, 534 U.S. 506 (2002) (emphasis added).

The Complaint clearly meets the liberal notice pleading standard. In the Complaint, Plaintiff alleges facts that, if proved, would be consistent with municipal and individual liability.

Defendants assert in their Memorandum that where a lawsuit alleging municipal liability is brought pursuant to § 1983, a municipality can only be liable when the alleged constitutional transgression was the result of implementation or execution of a policy, regulation or decision officially adopted by the governing body or informally adopted by custom. Monell v. New York Department of Social Services, et al., 436 U.S. 658 (1978). Plaintiff alleges facts claiming that Defendant Wagner is directly responsible for the conditions under which detainees are confined in Berks prison. Plaintiff also alleges that a policy is responsible for the constitutional violations against the decedent. At the pleadings stage, Plaintiff need not do more than allege a policy. The Complaint further states that upon information and belief, Defendant Wagner subjected Mr. Cuffy to excessively harsh conditions in violation of the constitution. Under a reasonable reading of these facts, the Plaintiff may be entitled to relief from the municipality of Berks County, Berks County Prison and George Wagner, in an official and individual capacity. The facts in the Complaint meet the liberal notice pleading standard. As such, the Berks Defendants' Motion to Dismiss the Complaint will be denied. An appropriate order follows.

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Defendants. :

**ORDER**

Presently pending is Defendants Berks County, Berks County Prison Board and George Wagner's Motion to Dismiss the Plaintiff's Second Amended Complaint, and Plaintiff's response thereto. **AND NOW**, this 5th day of October 2006, **IT IS HEREBY ORDERED** that

Defendants' Motion to Dismiss is **DENIED** .

BY THE COURT

s/ Clifford Scott Green, S.J.

CLIFFORD SCOTT GREEN, S.J.